



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SUNSET COAST ANESTHESIA
PO BOX 633020
CINCINNATI OH 45263-3020

Respondent Name

SAFEGUARD INSURANCE CO

Carrier's Austin Representative Box

Box Number 11

MFDR Tracking Number

M4-10-1610-01

MFDR Date Received

OCTOBER 23, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Sunset Coast Anesthesia provided services for the above-mentioned patient on date of service 03-12-2009. As anesthesia providers we rely on the facility where services are rendered to provide us with the most accurate insurance information. Our billing office received the enclosed face sheet from the hospital shown that on this date of service Medicare Part B was to be billed for the service rendered. After billing Medicare and receiving payment we then billed [Claimant] for the coinsurance due. The patient received two statements the first dated 04-16-2009 and the second dated 05-19-2009 before she called our office on 05-27-2009 and told us that her workers' compensation insurance should have paid for the services. At that time she did not have the billing address information however and gave us the name of her adjustor Paula Powell to call and obtain the claims mailing address. A call was placed on 05-27-2009 and again on 05-29-2009 with a message asking for billing information was left. It was not until 06-17-2009 that the adjustor returned our call and gave us the correct billing address. The address was either taken over the phone incorrectly or was given incorrectly and it was not until 07-13-2009 that the corrected billing address was finally correctly obtained and the claim was mailed with the anesthesia graph attached. The claim was promptly called to check status on 08-11-2009 and we were told at that time the claim would likely deny for timely filing. While we understand the timely filing guideline set forth by the state of Texas we respectfully question why Michigan providers must adhere to a law in a state where the services were not even rendered."

Amount in Dispute: \$628.63

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 20, 2009	CPT Code 01320-AA	\$628.63	\$375.76

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Texas Labor Code §408.027 effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
2. Texas Labor Code §408.0272 effective September 1, 2007, provides for exceptions to Texas Labor Code §408.027.
3. 28 Texas Administrative Code §133.307, effective May 25, 2008, 33 *Texas Register* 3954, sets out the procedures for resolving a medical fee dispute.
4. 28 Texas Administrative Code §133.20, effective January 29, 2009, 34 *Texas Register* 430, sets out the procedure for healthcare providers submitting medical bills.
5. 28 Texas Administrative Code §134.203 set out the fee guideline for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits
 - 29-The time limit for filing has expired.

Issues

1. Under what authority is a request for medical fee dispute resolution considered?
2. Does the documentation support timely filing of medical bill?
3. Is the requestor entitled to reimbursement?

Findings

1. The requestor provided services in the state of Michigan on March 12, 2009 to an injured employee with an existing Texas Workers' Compensation claim. The requestor was not satisfied with the respondent's final action. The requestor filed for reconsideration and was denied payment after reconsideration. The requestor filed for dispute resolution under 28 Texas Administrative Code §133.307. The dispute is to be decided under the jurisdiction of the Texas Workers' Compensation Act and applicable rules
2. According to the explanation of benefits, the respondent reduced the payment for CPT code 01320-AA based upon reason code "29."

Texas Labor Code, Section §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

28 Texas Administrative Code §133.20(b) states "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A)-(H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation."

Texas Labor Code §408.0272(b) states

Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

(1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:

(A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;

(B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or

(C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title.

The requestor submitted a copy of a report from Lakeland HealthCare for an admission on March 12, 2009 that indicates the insurance carrier name was "Medicare."

The requestor submitted a copy of an explanation of benefits dated April 10, 2009 for the disputed service. The Division finds that the requestor supported position that the bill was erroneously filed for reimbursement with Medicare within 95 days.

Texas Labor Code §408.0272(c) states "Notwithstanding Subsection (b), a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim."

The requestor received notification on May 27, 2009 that this was a Texas workers compensation claim. The submitted documentation supports the requestor's position that they submitted the medical bill on July 13, 2009 to the workers compensation insurance. This date is within 95 days of notification of the workers' compensation carrier; therefore, the insurance carrier's denial based upon "29" is not supported.

3. 28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

28 Texas Administrative Code 134.203(b)(1) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

28 Texas Administrative Code §134.203(c)(1) states, "...To determine to MAR for professional services, system participants shall apply the Medicare payment policies with minimal modification...For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$53.68..."

The requestor billed CPT code 00400 defined as "Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; not otherwise specified."

The requestor billed the disputed anesthesiology service using the "AA" modifier that is described as "Anesthesia services performed personally by anesthesiologist."

To determine the MAR the following formula is used: (Time units + Base Units) X Conversion Factor = Allowance.

The Division reviewed the submitted medical bill and finds the anesthesia was started at 1135 and ended at 1235, for a total of 60 minutes. Per Trailblazers Health Enterprises, LLC 2009 Anesthesia Manual "The 15-minute time interval will be divided into the total time indicated on the claim. Total time should always be accurately reported in minutes. Actual time units will be paid; no rounding will be done up to the next whole number – only round to the next tenth." Therefore, the requestor has supported $60/15 = 4$.

The base unit for CPT code 00400 is 3.

The DWC Conversion Factor is \$53.68.

The MAR for CPT code 00400-AA is: (Base Unit of 3 + Time Unit of 4) X \$53.68 DWC conversion factor = \$375.76. Previously paid by the respondent is \$0.00. The difference between the MAR and amount paid is \$375.76.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$375.76.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$375.76 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	6/26/2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service demonstrating that the request has been sent to the other party.***

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.